REMARKS

Applicants appreciate the Examiner's thorough consideration provided the present application. Claims 1 and 5-14 are now present in the application. Claims 2-4 have been cancelled, and claims 9-14 have been withdrawn from consideration. Claims 1, 5, 6, 7, 8, 9 and 13 have been amended. Claims 1, 9, 11 and 13 are independent. Reconsideration of this application, as amended, is respectfully requested.

Election/Restrictions

The Examiner has given a Restriction Requirement in the Office Action dated July 1, 2004. However, Applicants respectfully submit that **the Examiner inadvertently examined the originally filed claims 1-11 from the International PCT application, and did not enter claims 1-14 as amended under Article 34.** Claims 1-14 as amended under Article 34 were submitted on January 16, 2002, concurrently with the filing of the present application, and replaced the originally filed claims 1-11.

For the Examiner's convenience, it is noted that the Letter submitting the Article 34 Amendments can be found in the U.S. Patent and Trademark Office's Patent Application Information Retrieval (PAIR) system under a January 16, 2002 "Miscellaneous Incoming Letter" entry. The International Preliminary Examination Report with Article 34 Amendments can be found under a January 16, 2002 "Various IB Documents and Papers Submitted with the 371 Application such as the

ISR and IPER" entry, with the International Preliminary Examination report appearing in pages 5-9 of this image file and the amended claims appearing in pages 10-12. Accordingly, it is respectfully submitted that the Article 34 Amendments have been timely filed and received by the U.S. Patent and Trademark Office, and should therefore be entered.

To clarify the relationship between the originally filed International PCT claims and the claims as amended under Article 34, Applicant respectfully submit that:

Claims 1-4 under Article 34 correspond to originally filed claim 1;

Claims 5-8 under Article 34 correspond to originally filed claims 2-5; and

Claims 9-14 under Article 34 correspond to originally filed claims 6-11.

Accordingly, the original claim groupings from the July 1, 2004 Restriction Requirement do not apply, but should instead be grouped as follows, in connection with the claims as amended under Article 34:

Group I, drawn to a method of removing meat from a hard-shelled crustacean, applies to claims 1-8;

Group II, drawn to a method for preparing a stuffed crustacean, applies to claims 9 and 10;

Group III, drawn to a stuffed crustacean, applies to claims 11 and 12; and

Group IV, drawn to a crustacean stuffing, applies to claims 13 and 14.

Since Group I, drawn to a method of removing meat from a hard-shelled crustacean, was elected, claims 1-8 should be under examination and claims 9-14 should be currently withdrawn from consideration. It is therefore believed that presently amended claim 1 and its dependent claims 5-8 comply with the Examiner's Restriction Requirement.

Applicants reserve the right to file a divisional application for the non-elected matter at a later date.

Claim Rejection Under 35 U.S.C. §112

Claim 5 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. This rejection is respectfully traversed.

It is noted that the Examiner's rejection is mistakenly based on the originally filed claims and not the claims as amended under Article 34. It is noted that originally filed claim 5 corresponds to claim 8 as amended under Article 34. Accordingly, this rejection under 35 USC 112, second paragraph, should be applied to claim 8 and not claim 5.

In view of the foregoing amendments, it is respectfully submitted that this rejection has been addressed. In particular, claim 8 has been amended to recite that it is dependent upon claims 1, 5, 6 or 7, and has specified that the step of vacuum aspiration is to remove and recover the meat. Accordingly, all pending claims are now definite and clear. Reconsideration and withdrawal of the rejection under 35 U.S.C. § 112, second paragraph, are therefore respectfully requested.

Claim Rejections Under 35 U.S.C. §§ 102 & 103

Claims 1 and 2 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Rutledge, U.S. Patent No. 4,053,964. Claims 3-5 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Rutledge in view of Fehmerling, U.S. Patent No. 3,513,071. Claims 5/1 and 5/2 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Rutledge in view of Trelease, U.S. Patent No. 3,773,962. These rejections are respectfully traversed.

In light of the foregoing amendments to the claims, Applicants respectfully submit that these rejections have been obviated and/or rendered moot. As the Examiner will note, independent claim 1 has been amended to recite a combination of steps including "immersing said intact shell in a solution of protease enzymes", "said thawing is accomplished at a temperature range of 4°C to 12°C" and "said thawing is accomplished at a temperature range of 1°C to 10°C in cold water, or in a cold dilute solution of brine" and "subjecting said intact shell to the action of a superchilled ice/salt mixture at a maximum low temperature of the eutectic temperature". Applicants respectfully submit that the above combination of steps as set forth in amended independent claim 1 is not disclosed nor suggested by the references relied on by the Examiner.

Rutledge discloses a hard-shelled crustacean meat recovery process. In particular, Rutledge merely teaches quick freezing or placing crabs in a standard freezer, followed by leaving the crabs at room

temperature to thaw (see col. 2 lines 3-6 and lines 15-17). Rutledge fails to teach a thaw cycle in a temperature range of 4°C to 12°C as recited in claim 1, nor does it teach a thaw cycle in a water or brine solution between 1°C and 10°C as recited in claim 1. Rutledge also fails to teach the use of either a solution of protease enzymes or a superchilled ice/salt mixture to initiate the detachment of the meat as recited in claim 1.

With regard to the Examiner's reliance on Fehmerling and Trelease, these references have only been relied on for their teachings related to the subject matter of dependent claims. These references also fail to disclose the above combination of steps as set forth in amended independent claim 1. Accordingly, these references fail to cure the deficiencies of Rutledge.

Specifically, Fehmerling discloses the use of a solution at 125°F (approximately 52°C) (see col. 6, line 11) and at a temperature of between 90°F and 175°F (approximately 32°C to 77°C) (see claim 2) to immerse the creatures.

Accordingly, none of the references utilized by the Examiner individually or in combination teach or suggest the limitations of amended independent claim 1 or its dependent claims. Therefore, Applicants respectfully submit that claim 1 and its dependent claims clearly define over the teachings of the references relied on by the Examiner.

Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. §§ 102 and 103 are respectfully requested.

CONCLUSION

It is believed that a full and complete response has been made to the Office Action, and that as such, the Examiner is respectfully requested to send the application to Issue.

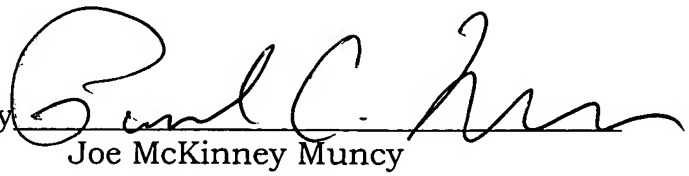
In the event there are any matters remaining in this application, the Examiner is invited to contact Joe McKinney Muncy, Registration No. 32,334 at (703) 205-8000 in the Washington, D.C. area.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicants respectfully petition for a two (2) month extension of time for filing a response in connection with the present application and the required fee of $450.00 is attached herewith.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By 

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